

Committee Reports.**(Majority Report.)**

Committee Room,
Austin, Texas, August 3, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, a majority, of your Committee on State Affairs, to whom was referred

S. B. No. 5, A bill to be entitled "An Act to regulate Texas State commerce by oil pipeline agencies, gas pipeline agencies, oil and/or gas purchasing agencies and persons, firms or corporations operating in the purchase, production, distribution, sale or transportation of crude oil and its products, natural gas and its products and artificial gas."

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do not pass.

MOORE, Chairman.

(Minority Report.)

Committee Room,
Austin, Texas, August 3, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, a minority, of your Committee on State Affairs, to whom was referred

S. B. No. 5, A bill to be entitled "An Act to regulate Texas State commerce by oil pipeline agencies, gas pipeline agencies, oil and/or gas purchasing agencies and persons, firms or corporation operating in the purchase, production, distribution, sale or transportation of crude oil and its products, natural gas and its products and artificial gas."

Have had the same under consideration, and beg leave to differ with the majority and recommend that S. B. No. 5 as substituted be passed and be not printed in lieu of advance printing.

GAINER,
STEVENSON.

Committee Room,
Austin, Texas, August 3, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 14, A bill to be entitled "An Act creating the Conservation Commission of Texas to be composed

of three men; providing the qualifications of its members, their terms of office, their method of appointment, and their salaries, etc."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed in lieu of advance printing.

MOORE, Chairman.

Amend S. B. No. 14 by striking out the figures 1-4 of 1c wherever it appears and insert in lieu thereof the figures 1-8 of 1c.

MOORE, Chairman.

Committee Room,
Austin, Texas, August 3, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 3, A bill to be entitled "An Act to amend Article 4644 of the Revised Civil Statutes of the State of Texas of 1925, relating to the issue of an injunction, or temporary restraining order, prohibiting surface drilling or mining operations on the application of an adjacent landowner, claiming injury to the surface, or improvements, or loss or injury to the minerals thereunder; so as to provide for protectful, uneconomical and unscientific exploitation of the same field, pool, stratum and strata, or any part thereof, to the damage and injury of value or values of any person or persons having rights and interests therein, whether on adjoining land or not; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed in lieu of advance printing.

MOORE, Chairman.

FOURTEENTH DAY.

Senate Chamber,
Austin, Texas,
August 4, 1931.

The Senate met at 9:30 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Edgar E. Witt.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Poage.
DeBerry.	Pollard.
Gainer.	Purl.
Greer.	Rawlings.
Hardin.	Russek.
Holbrook.	Small.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Loy.	Williamson.
Martin.	Woodruff.
Moore.	Woodul.
Neal.	Woodward.
Oneal.	

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Williams.

Petitions and Memorials

(See Appendix.)

Committee Reports

(See Appendix.)

Bills and Resolutions

By Senator Small:

S. B. No. 26, A bill to be entitled "An Act making provisions for the enforcement of tax liens of county and State and cities and towns and districts, and all subdivisions of government with taxing power, where taxes are unpaid and delinquent on real property, by eliminating the foreclosure thereof by suits in court and by providing for notice, advertisement, sale, execution and delivery of deed by collector, effect of deed, defenses, redemption, fees, costs, disposition of pending suits, quieting title, making the same applicable to all existing delinquencies for years 1915 to 1930 inclusive and thereafter, and making the present statutes requiring foreclosure suits in court applicable only for year 1914 and prior thereto; constituting the Comptroller, Tax Commissioner and Attorney General of Texas as a Tax Board to determine in what instances property adjudicated to the State should be relinquished and not sold; providing a system of transfer of tax liens and foreclosure thereof by transferee; and declaring an emergency."

Read and referred to the Committee on State Affairs.

Senate Concurrent Resolution No. 7.

Senator Purl sent up the following resolution:

Whereas, at the Regular Session of the Forty-second Legislature of the State of Texas, there was appropriated out of the General Fund of the State the sum of \$33,580.00 for the repair and renovation of the old Travis County Courthouse building in order that more office space could be provided for some of the overcrowded State departments; and

Whereas, another Act of the same Legislative Session provided for the erection of a State Highway Building on the site now occupied by the old Travis County Jail and jailer's residence and immediately east of said Courthouse building, making it necessary to raze and remove said jail and residence; and

Whereas, the State Game, Fish and Oyster Commission some months ago was requested by the State Board of Control to move out of its quarters in the New Land Office Building in order to provide space for other over-crowded state departments which had no funds with which to rent additional necessary quarters; and the said commission complied with said request, and has been, and now is, paying \$250.00 per month rent for their present quarters; and

Whereas, the Board of Control has indicated that it desires to assign space in the re-constructed Courthouse building to some of the overcrowded departments now housed in the Capitol building, and also, if proper arrangements therefor can be made, to provide therein sufficient space to house the Game, Fish and Oyster Commission, thus saving the State the sum of \$250.00 per month which the Commission is now paying for rented quarters; and

Whereas, the razing of said jail and jailer's residence will provide an abundance of rock similar to that contained in the courthouse building, but the Board of Control finds that the amount of money appropriated out of the General Revenue Fund for such repairs and renovation will be insufficient to utilize such rock and other material in the reconstruction of said Courthouse building in a manner to provide a sufficient enlargement of said building to also house said Game, Fish

and Oyster Commission, unless said appropriation is supplemented to a total sum of approximately \$50,000.00; and

Whereas, the Board of Control has conferred with the State Game, Fish and Oyster Commission and has requested said Commission to supplement said appropriation out of said Commission's funds, provided the Legislature first shall have given their approval of such expenditure out of said funds by a resolution; and

Whereas, neither the Board of Control nor the Game, Fish and Oyster Commission is willing to supplement the appropriation to rehabilitate the Courthouse building without express authority from the Legislature; therefore,

Be It Resolved, By the Senate of the State of Texas, the House of Representatives concurring, that the Game, Fish and Oyster Commission be, and is hereby authorized to supplement the above mentioned appropriation of Thirty-three Thousand Five Hundred Eighty (\$33,580.00) Dollars with a sum sufficient to repair, reconstruct and rehabilitate the Courthouse building in accordance with the desires, plans and specifications of the State Board of Control, such expenditures to be made upon the contractor's written estimates which have theretofore been approved by the Board of Control, but in no event shall said Game, Fish and Oyster Commission use more than Sixteen Thousand Five Hundred (16,500.00) of its funds for said purpose; and the said Commission is hereby authorized to pay said Sixteen Thousand Five Hundred \$16,500.00 Dollars, or so much thereof as may be necessary, out of any of the several funds that have been heretofore appropriated to the Game, Fish and Oyster Commission for the biennium ending August 31, 1933.

PURL.

Read and referred to the Committee on Finance, on motion of Senator Purl.

Message from the House.

Hall of the House of Representatives,
Austin, Texas, Aug. 4, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House

failed to pass by a vote of 49 yeas and 62 nays:

By Mr. Reader, Mrs. Hughes, Mr. Baker, and Mr. Jones of Atascosa.

H. B. No. 8, A bill to be entitled "An Act to conserve water supplies and prevent soil contamination; prescribing a penalty, and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

At Ease.

On motion of Senator Small, the Senate, at 9:45 o'clock a. m., stood at ease subject to the call of the Chair.

In Session.

The Senate was called to order at 2:30 o'clock p. m. by Lieutenant Governor Edgar E. Witt.

Communications Read and Referred.

Senator Parr sent up a communication from the Nueces Construction Co. of Corpus Christi, Texas, which was read and, on motion of Senator Parr, referred to the Committee on Highways and Motor Traffic for investigation and ordered printed in the Journal. (See Appendix.)

Senator Purl sent up a communication from Mr. Dan Smith of San Antonio, relative to freight rates on agricultural products. On motion of Senator Martin, the letter was referred to the Committee on State Affairs.

Simple Resolution No. 16.

Senator Woodruff sent up the following resolution:

Resolved, That the president of the Senate appoint three Senators for the purpose, and which three Senators so appointed shall ascertain in advance what number of employees may be required to perform the duties incident to this session of the Senate, after adjournment thereof, and to make recommendation to the Senate as to such number probably to be required, the number of days each such employee shall be required to work, and the pay each shall receive for such service.

Resolved further that said committee so appointed be and it is hereby instructed to make such report to include the fewest number pos-

sible, with the lowest expense possible, reasonably to procure the necessary work to be done.

WOODRUFF.

Read and adopted.

Simple Resolution No. 17.

Senator Hornsby sent up the following resolution:

Whereas, The Hon. E. M. House and his wife are former citizens of Texas and still call Austin their home; and

Whereas, This distinguished couple have achieved national prominence, reflecting great honor upon their native state, and their friends are legion; and

Whereas, Colonel and Mrs. E. M. House are today celebrating the fiftieth anniversary of their wedding in Manchester, Massachusetts;

Therefore Be It Resolved by the Senate of Texas: That the Secretary of the Senate be instructed to send a telegram to Hon. and Mrs. E. M. House, conveying the felicitations and congratulations of the Texas Senate on this happy occasion.

HORNSBY.

Read and adopted.

Motion to Print.

Senator Pollard moved that the State Affairs Committee be authorized to have S. B. No. 18 printed and returned to the Senate tomorrow in case it reported on the bill today.

Executive Session Set.

On motion of Senator Pollard, the Senate voted to go into executive session tomorrow immediately prior to adjournment.

Motion to Re-refer.

Senator Purl moved to re-refer S. B. No. 24 to the Committee on Agricultural Affairs.

Senator DeBerry moved to table the motion. The motion to table prevailed.

Adjournment.

On motion of Senator Moore, the Senate, at 3:05 o'clock p. m. adjourned until 9:30 o'clock tomorrow morning.

APPENDIX

Committee Reports

Committee Room,
Austin, Texas, August 4, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. B. No. 23, A bill to be entitled "An Act amending House Bill No. 943, passed at the Regular Session of the Forty-second Legislature of the State of Texas, being Chapter 159, page 311 of the Special Laws of the State of Texas; repealing all laws in conflict with said Act, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

MOORE, Chairman.

Committee Room,
Austin, Texas, Aug. 4, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We your Committee on State Affairs, to whom was referred S. B. No. 15, A bill to be entitled "An Act amending Title 102 of the Revised Civil Statutes of 1925 relating to oil and gas by adding thereto an additional title numbered 102A, further defining waste and further defining the powers and duties of the Commission in respect to the enforcement of the oil and gas laws as embodied in Title 102 Revised Civil Statutes of 1925 and all amendments thereof, and further providing the procedure before said Commission and in the courts in respect to the conservation of oil and gas and the enforcement of the rules and regulations of the Commission; Etc."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

MOORE, Chairman.

Committee Room,
Austin, Texas, August 4, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. B. No. 13, A bill to be entitled "An Act to aid in the conservation and transportation of oil by encouraging the joint construction and operation of new and additional pipe

lines in the State of Texas, thereby increasing competition in the transportation of oil to the markets of the world, by authorizing any corporation heretofore organized and incorporated under Article 1495 and Article 1496 of the Revised Civil Statutes of 1925, or any prior law, or any corporation that may be hereafter organized under said Articles, and authorized to own and/or operate oil pipe line or lines in this State, to join with any other corporation authorized to own and/or operate an oil pipe line or lines in constructing a new pipe line or lines upon such terms as may be agreed upon between the directors or managers of the line or lines or respective corporations, and when an oil pipe line or lines have been so jointly constructed, the owners thereof are authorized to jointly own, use, operate and maintain the same upon such terms as may be agreed upon between the directors or managers of the respective corporations, but provided that such construction, ownership, use, operation and maintenance, shall be subject to such supervision of the Conservation authorities of the State of Texas as the law may now or hereafter provide; and declaring an emergency."

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass and be not printed in lieu of advance printing.

MOORE, Chairman.

Committee Room,
Austin, Texas, Aug. 4, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. C. R. No. 6, "Providing for the appointment of a Legislative Committee to make a tax survey and report to a Called Session of the Forty-second Legislature or to the Regular Session of the Forty-third Legislature and making appropriations from the contingent fund of the Forty-second Legislature to defray expenses of such committee."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

MOORE, Chairman.

Committee Room,
Austin, Texas, Aug. 4, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. B. No. 12, A bill to be entitled "An Act conserving and protecting for the use of the public buffaloes in Texas, making it unlawful for any person to sell or transport the same except under certain conditions, and providing for a method of condemning the same by the State Game, Fish and Oyster Commission, in order that buffaloes may be conserved and protected against destruction, providing the the procedure therefor and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass with committee amendment.

MOORE, Chairman.

Committee Amendment

Amend Senate Bill No. 12, Section 2, by adding a new paragraph as follows: "Provided that the Game, Fish and Oyster Commission is hereby authorized to sell buffalo bulls not less than 10 years of age."

MOORE.

Committee Room,
Austin, Texas, Aug. 4, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Agricultural Affairs, to whom was referred

S. B. No. 24, A bill to be entitled "An Act Amending Section 1, Subdivision 4, of Chapter 212, House Bill 251, as passed by the Regular Session of the Forty-second Legislature so as to provide that hereafter no tax, direct or indirect, shall be imposed on those engaged in selling farm products."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

CUNNINGHAM, Chairman.

Committee Room,
Austin, Texas, Aug. 4, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

H. B. No. 4, A bill to be entitled "An Act making an appropriation of

Thirty Thousand (\$30,000.00) Dollars, to be used by the Attorney General for the purpose of paying the expenses of investigating and prosecuting violations of conservation and anti-trust laws of this State; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed in the Journal.

HARDIN, Chairman.

By Graves et al. H. B. No. 4.

A BILL
To Be Entitled

An Act making an appropriation of Thirty Thousand (\$30,000.00) Dollars to be used by the Attorney General for the purpose of paying the expenses of investigating and prosecuting violations of conservation and anti-trust laws of this State; and declaring an emergency.

Whereas, Monopolies, trusts and combinations in restraint of trade are declared by the Constitution of Texas to be contrary to the genius of free government; and

Whereas, It is charged that persons, firms, corporations and associations of persons engaged in various lines of business and industry have brought themselves under ownership, management and control with the effect of creating monopolies for the purpose of lessening competition and fixing prices; and

Whereas, when the present Attorney General assumed his duties on January 1, 1931, there was pending in courts throughout the State an unprecedented volume of litigation demanding the attention of his Department; and

Whereas, Litigation involving the proration of oil has arisen in such volume as to seriously burden said Department in the efficient performance of its other duties; and

Whereas, the Legislature convened in its 42nd Regular Session within a few days after the present Attorney General assumed the duties of office, and the Attorney General made available to this Legislature the assistance of his office in every way possible; and

Whereas, Said Department has been hampered in its investigations of law violations and in the enforce-

ment of existing conservation measures for lack of funds; and

Whereas, The pressing economic conditions have created a great unrest and uncertainty, and the general trend has been toward centralization of power and finance through trusts, combinations and monopolies, or agreements having monopolistic tendencies; and

Whereas, The most deplorable condition exists in the oil industry severely testing existing laws and existing commissions, and other enforcement agencies and remedies, which condition has largely given rise to the urgency of the present Called Session of this Legislature; and

Whereas, Frequent charges are made concerning alleged violations of our anti-trust laws in several industries, and especially among power and utility companies and oil companies; and

Whereas, Extensive investigations have been conducted and are now being conducted into such alleged violations; and

Whereas, It behooves the Legislature of this State and each member thereof to lend every assistance to the Attorney General's Office, as a patriotic duty of citizenship and as an officer of this State, entrusted with the confidence and support of their constituency; and

Whereas, Any adequate enforcement of existing measures or those which shall be hereafter enacted, as well as the enforcement of existing laws prohibiting monopolies, trusts and combinations in restraint of trade, demands and requires the support of the Legislature, both in spirit and in a substantially material way; now, therefore,

Be it enacted by the Legislature of the State of Texas:

Section 1. There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, the sum of Thirty Thousand (\$30,000.00) Dollars or so much thereof as may be necessary, to be used by the Attorney General of Texas for the purpose of paying all necessary expenses incurred by his Department in the investigation and enforcement of such conservation laws as are now in force or shall hereafter be enacted; and further, for the purpose of paying such costs in the investigation of and prosecution of

violations of the anti-trust laws of this State, including the employment of such assistance as may be necessary, said assistants not to receive more than Three Hundred and Fifty (\$350.00) Dollars per month. The monies paid out under the provisions of this appropriation shall be on sworn accounts approved by the Attorney General and paid in the manner provided by law.

Sec. 2. The fact that there has been no appropriation made for the purpose of paying the necessary expenses to investigate and prosecute cases involving violations of conservation and anti-trust laws of this State, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

Committee Room,

Austin, Texas, Aug. 4, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. B. No. 18, A bill to be entitled "An Act to amend Chapter 36 of the Fifth Called Session of the Forty-first Legislature, enlarging the powers and duties of the Railroad Commission of Texas with reference to conservation, transportation, storage and purchase of petroleum and its products in this State; designating as public utilities the owners, operators and managers of storage tanks and storage facilities for the public hire; and providing an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that substitute bill, do pass in lieu thereof and be printed.

MOORE, Chairman.

C. S. S. B. For S. B. No. 18.
By Pollard:

A BILL

To Be Entitled

An Act to amend Chapter 36 of the Acts of the Fifth Called Session of the Forty-first Legislature, by re-enacting the first six sections

thereof, except to amend Section 6 to allow reports on or before the twentieth day of each month; providing a basis for pipe line rates; requiring the Railroad Commission to establish and enforce same; providing for temporary rates and reimbursement, and for single and joint line transportation; providing for general adjustments once each year; by adding Section 6a; re-enacting Section 8, except to amend the definition of a common purchaser of crude oil to read "one who purchases crude oil"; adding Section 8a which defines common purchasers of natural gas, and making the provisions of this Act applicable to them; by adding Section 8b directing the Railroad Commission to establish regulations for the enforcement of the common purchaser gas provisions; re-enacting Sections 9, 10, and 11, except to amend Section 11 permitting one half of penalty to be recovered by one discriminated against; adding Section 11a, providing for the forfeiture of the charter of a domestic corporation which is also a common purchaser for violation of the provisions hereof; adding Section 11b, providing for the cancellation of a permit and permanent injunction against foreign corporations which are common purchasers for violations of the provisions hereof; adding Section 11c, providing for damage suits against common purchasers in favor of those discriminated against where damage occurs; adding Section 11d, directing the Railroad Commission to order reasonable extensions and connections to prevent discrimination; adding Section 11e, directing the Railroad Commission to request the Attorney General to bring mandatory injunctions to enforce same; adding Section 11f, providing for receivership for violation of orders finally adjusted to be valid; and providing for dissolution of receiverships and making bond; adding Section 11g, preventing discrimination in the purchase of royalty oil, preventing unreasonable delays in payments for royalty oil, and for damages for violation; re-enacting Sections 12, 13 and 14, and declaring an emergency.

Be it enacted by the Legislature of Texas:

That Chapter 36 of the Acts of the Fifth Called Session of the Forty-first Legislature be amended to hereafter read as follows:

Section 1. Every person, association of persons, or corporation owning, operating or managing any crude petroleum storage tanks or storage facilities for the public for hire, either in connection with a pipe line, pipe lines, or otherwise, is hereby declared to be a public utility, subject to the provisions of this law.

Sec. 2. No such public utility in its operations as such shall discriminate between or against its patrons in regard to facilities furnished or services rendered, or rates charged under the same or similar circumstances, in the storage of crude petroleum.

Sec. 3. All such public utilities as herein defined shall within thirty days after this Act takes effect, or in case of persons, associations or corporations, hereafter engaging in such business, before they actually engage therein, file a bond which shall not exceed Twenty-five Thousand (\$25,000.00) Dollars, properly executed, payable to the State of Texas, the amount of such bond and the sureties thereon to be subject to the approval of the Railroad Commission of the State of Texas. The amount of such bond may be changed from time to time by order of the Railroad Commission, after notice and hearing as prescribed by Article 6038, Revised Civil Statutes, in accordance with the volume of business done, or to be done, by such public utility and such bond or securities in lieu thereof as provided by Art. 836 of the Revised Civil Statutes of Texas, shall be approved by the Railroad Commission before it is filed. Such bond shall be conditioned that the utility will observe the provisions of this law and the rules of the Railroad Commission in so far as its business is regulated and controlled by such Commission, and that the utility will exercise ordinary care in the storage, preservation, handling and delivery of all petroleum products entrusted to it and shall guarantee the classification, measurements and grades made by such public utility, under its authority in conformity herewith. The bond shall be for the benefit of the patrons of such utility and their assignees as though they were named

obligees therein, and they shall severally have the right of suit thereon.

Sec. 4. The Railroad Commission of Texas shall establish and enforce rules and regulations governing the character of facilities to be furnished by such utilities, the forms of receipts to be issued by them, the rates, charges and regulations for the storage of crude petroleum by such public utilities in respect to their storage facilities and for the inspection, grading, measurement, deductions for waste or deterioration, the delivery of such products, and it shall also exercise such power upon petition of any person showing a substantial interest in the subject matter thereof.

Sec. 5. Any such public utility shall have a lien on the commodity in its possession to secure it in the payment of all proper storage charges against such commodity, and/or the transportation charges accrued to or paid or advanced by it, superior to all other liens thereon, except lien for taxes.

Sec. 6. Every common carrier of crude petroleum within this State as defined by law and every public utility as defined herein shall on or before the twentieth day of each calendar month file with the Railroad Commission of Texas, and post in a conspicuous place, accessible to the general public, in each of its division offices, and in its principal office in this State, a statement, duly verified, containing the following information concerning its business during the preceding calendar month:

1. How much petroleum, crude or refined, was in the actual and immediate custody of such carrier or public utility at the beginning and close of such month, and where same was located or held, including the location and designation of each tank or place of deposit, and the name of its owner.

2. How much petroleum, crude or refined, was received by such carrier or public utility during such month;

3. How much petroleum, crude or refined, was delivered by such carrier or public utility during such month;

4. What quantity of such petroleum, crude or refined, is held by it for the account of itself or parent or affiliated organizations.

5. The available empty storage

owned or controlled by it and where located.

Sec. 6a. The Commission shall establish and promulgate rates of charges and regulations for gathering, transporting, loading and delivering crude petroleum by such common carriers in this State, and for the use of storage facilities necessarily incident to such transportation, and prescribe and enforce rules and regulations for the government and control of such common carriers in respect to their pipe line and receiving, transferring and loading facilities. Such rates shall include both single and joint line transportation, deductions for evaporation and shrinkage, demurrage, storage, and overage, charges, and all other similar items. The basis of such rates shall be such as will provide a fair return upon the aggregate value of the property of any such carrier used or useful in the services performed after providing reasonable allowance for depreciation and other proper factors, and for reasonable operating expenses under honest, efficient and economical management, and provided further that the Commission shall have reasonable latitude in the establishment and adjustment of competitive rates.

Immediately after this Act shall become effective it shall be the duty of the Commission to hold hearings as to rates now charged and shall reset them on all existing and operating lines, in accordance with the preceding article, taking into consideration the past earnings of such carrier.

When any carrier makes application or files tariff to establish a new rate, either for a new or old line, a temporary rate may be placed into effect immediately upon filing said tariff with the Commission. If any rates shall be filed and shippers who have paid the rates so filed by the pipe line company shall have the right to reparation or reimbursement of all excess rates or transportation charges so paid over and above the rate as finally determined on all shipments after filing such complaint. When any person or persons at interest hereafter file an application for a change in a rate or rates the Commission shall call a hearing or hearings and shall immediately thereafter establish and promulgate a rate or rates in accordance with the basis herein set out. The Commission,

shall on its own motion or motion of any interested person, hold a hearing or hearings when it has reason to believe that any rate or rates do not conform to the basis herein set out, said hearings or hearing to be for the purpose of adjusting, establishing and promulgating a proper rate or rates, and said Commission shall hold a general hearing once each year for the purpose of adjusting all rates to conform to the basis of rates and charges as herein set out. Article 6037, Revised Civil Statutes, is hereby repealed.

Sec. 7. The Railroad Commission of Texas may, after hearing in a proceeding upon complaint by a party at interest, or upon its own initiative without complaint, and after notice and hearing as provided by Article 6038, Revised Civil Statutes of Texas, 1925, authorize or require by order any person, association of persons, or corporation owning or operating pipe lines in the State of Texas, which is a common carrier as defined by law, or owning, operating, or managing any crude petroleum storage tanks, or crude petroleum facilities for the public for hire, to extend or enlarge such pipe lines, or storage facilities, provided such extension or enlargement shall be found to be reasonable and required in the public interest and that the expense involved will not impair the ability of such common carrier or public utility to perform its duty to the public.

Sec. 8. Every person, association of persons or corporation who purchases crude oil or petroleum in this State, which is affiliated through stock-ownership, common control, contract, or otherwise, with a common carrier by pipe line, as defined by law, or is itself such common carrier, shall be a common purchaser of such crude petroleum and shall purchase oil offered it for purchase without discrimination in favor of one producer or person as against another in the same field, and without unjust or unreasonable discrimination as between fields in this State; the question of justice or reasonableness to be determined by the Railroad Commission, taking into consideration the production and age of wells in respective fields and all other proper factors. It shall be unlawful for any such common purchaser to discriminate between or against crude oil or petroleum of a

similar kind or quality in favor of its own production, or production in which it may be directly or indirectly interested, either in whole or in part, but for the purpose of prorating the purchase of crude oil or petroleum to be marketed, such production shall be taken in like manner as that of any other person or producer and shall be taken in the ratable proportion that such production bears to the total production offered for market in such field. The Railroad Commission of Texas shall have authority, however, to relieve any such common purchaser, after due notice and hearing, as hereinafter provided, from the duty of purchasing petroleum of inferior quality or grade.

Sec. 8a. Likewise, every person, association of persons, or corporation, who purchases natural gas and/or residue gas, and/or casinghead gas, and is likewise affiliated in any of the above described manners with a pipe line transporting gas and such gas pipe line is so constructed and/or operated as that, if it were similarly constructed and operated to transport petroleum oil, would fall within the definition of a common carrier by pipe line, as now defined by law, and/or if such pipe line by any other test or law is a common carrier, or if such purchaser is itself such pipe line company, then, in any such event, such purchaser shall be a common purchaser of gas and shall purchase gas in the same manner, under the same inhibitions against discriminations and subject to the same provisions as are hereinabove set out with respect to common purchasers of oil.

Sec. 8b. It shall be the duty of the Railroad Commission of Texas to see that the provisions of this Act are fully complied with, and it shall have the power, after notice and hearing, to make rules, regulations and orders defining the distance that extensions or gathering lines shall be made; to determine the open flow of wells and the amounts that shall be taken from each well in order to prevent the discrimination herein prohibited as between producers, and such other rules, regulations or orders as may be necessary to carry out the provisions of this Act.

Sec. 9. The Railroad Commission of Texas shall have authority to make rules and regulations for the

enforcement of the provisions of this Act.

Sec. 10. Any person, association of persons or corporation, or the Attorney General of Texas on behalf of the State, may institute proceedings before the Railroad Commission, or apply for a hearing before said Commission, upon any question relating to the enforcement of this Act, and jurisdiction is hereby conferred upon said Commission to hear and determine the same after the notice provided by Article 6038, Revised Civil Statutes of Texas. The Commission shall not make any order establishing, prescribing or modifying rates, rules or regulations, as herein provided, except upon like notice and hearing as provided in said Article 6038.

Sec. 11. For the violation of any provision of this Act, or for the violation of any valid rule or regulation promulgated hereunder or any order passed by the Railroad Commission in pursuance of any such provision, rule or regulation, such person, association of persons, or corporation shall be subject to a penalty of not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1000.00) Dollars for each offense recoverable in the name of the State in any District Court in Travis County, Texas, and each day of such violation shall constitute a separate offense. One half of such penalty may be recovered by and for the use of any person, association of persons or corporation against whom there shall have been an unlawful discrimination as herein defined, such suit to be brought in the name of and for the use of the party or parties aggrieved.

Sec. 11a. For any violation of any provisions of this Act, or for the violation of any valid rule or regulation promulgated hereunder by the Railroad Commission in pursuance of such provision, by any domestic corporation, which is a common purchaser as defined herein, the charter of said corporation may be forfeited at the request of the Attorney General if, in the judgment of the court before whom the litigation is pending, said corporation is adjudged guilty of said violation. The forfeiture of the charter shall be in addition to all other penalties prescribed by law.

Sec. 11b. For any violation of any provision of this Act, or for the

violation of any valid rule or regulation promulgated hereunder by the Railroad Commission in pursuance of such provision, by any foreign corporation, which is a common purchaser as defined herein, the Attorney General may bring suit in the District Court of Travis County for the purpose of enjoining and forever prohibiting such corporation from doing business in this State, and if adjudged guilty by the Court before whom the action is brought, the injunction shall be granted provided said injunction shall be in addition to all other penalties.

Sec. 11c. When any person, persons, association or corporation is discriminated against by a common purchaser as defined herein in favor of the production of said common purchaser, a cause of action for damages, when such has occurred, shall against said common purchaser and said person, persons, association or corporation may bring suit for same in any court of competent jurisdiction in the county in which the damage occurred.

Sec. 11d. The Railroad Commission shall make inquiry in each field concerning the connections of the various producers and when discrimination is found to be practiced by any common purchaser as defined in this Act the said Railroad Commission shall issue an order to such common purchaser to make such reasonable extensions of their lines and such reasonable connections as will prevent such discrimination.

Sec. 11e. The Railroad Commission shall, upon information that discrimination is practiced in its purchases by any common purchaser, request the Attorney General to bring a mandatory injunction suit against said common purchaser to compel such reasonable extensions as are necessary to prevent discrimination.

Sec. 11f. Whenever any order, rule or regulation promulgated by the Commission pursuant to this Act has been finally adjudged to be valid, in whole or in part, in any suit to which the Commission is a party, and thereafter any party to the suit or other proceedings in which such matter has been so adjudged, shall violate such rule, regulation, order or judgment, or shall suffer any property owned or controlled by him to be used in violation of any such rule, regulation, order or judgment,

the Commission shall have the power, and it shall be its duty, to make, application to the Judge of the trial court, setting out such rules, that such party, subsequent to the date of such judgment, has violated or is violating such rule, regulation, order, or judgment, and praying that a receiver be appointed as provided in this section. Thereupon the judge of such trial court may after notice, appoint a receiver of the property involved or used in violating such rule, regulation, order, or judgment, and shall fix a proper bond for such receiver. As soon as such receiver has qualified, he shall take possession of such property, and such receiver thereafter shall perform his duties as receiver of such property under the orders of said court, strictly observing such rule, regulation, order or judgment. Any party whose property has been so placed in the hands of a receiver may move to dissolve such receivership and discharge the receiver only upon showing that such party has not wilfully violated nor suffered property owned or controlled by him to be used in violating such rule, regulation, order or judgment or upon other good cause shown. In its discretion such court may, before dissolving such receivership or discharging such receiver, require the party applying for such dissolution or discharge to give bond in such amount, and payable, conditioned and approved, and for the use and benefit of the parties and to be sued on within the time, as provided, with reference to bond for injunction to be given by complaint as provided herein.

Sec. 11g. Any common purchaser of oil or gas as herein defined shall, in making purchases of royalty oil, comply with all the provisions of this Act, and shall not discriminate between royalty and/or land owners in making such purchases. Neither shall said common purchaser unreasonably delay payments to said land and/or royalty owner for said oil or gas purchased. For violation whereof, in addition to the other penalties herein set out, the land and royalty owner or owners damaged thereby shall have a cause of action against said common purchaser for damages and may file suit for same in any court of competent jurisdiction in the county where the royalty lies.

Sec. 12. Any person or party at interest aggrieved by any order of the Railroad Commission of Texas under this Act, may have such order reviewed by proceeding in the manner prescribed by Article 6453, Revised Civil Statutes of Texas. The proceedings upon appeal shall be in like manner as prescribed by Article 6453.

Sec. 13. The invalidity of any section of this Act, or part thereof shall not affect the remainder of said Act, and it is hereby declared that the Legislature would have passed any section or provision hereof independently of all other sections or provision.

Sec. 14. This Act shall be construed as in addition to and cumulative of all other laws now in force and is not to be construed as any impairment of or limitation of any law now in force.

Sec. 15. The fact that Chapter 36 of the Acts of the Fifth Called Session of the Forty-first Legislature has been practically inoperative because of inadequate penalties, and that it did not include the common purchasing of natural gas and that there is existing discrimination in the purchases of both oil and gas creating chaos in the industry, constitutes an emergency and an imperative public necessity that the constitutional rule requiring all bills to be read on three several days be suspended, and the same is hereby suspended, and that this Act take effect from and after its passage, and it is so enacted.

**COMMUNICATION ORDERED
PRINTED.**

Nueces Construction Company
Incorporated
General Contractors
732-734 Nixon Building

Corpus Christi, Texas.
August 1, 1931.

Hon. Archie Parr,
Senate Chamber,
Austin, Texas.

Dear Sir:—

In Re: Highway Commission-Nueces-Jim Wells Counties, Bridges.

We wish to advise you of the discrimination that we have been subjected to on the part of the Highway Commission, and particularly, the subordinate employees Mr. Gilchrist, State Highway Engineer, Mr. George Wickline, State Bridge Engineer, and

Mr. Max Hodges, of the Department.

The situation that we complain of and the discrimination we have suffered, reflect a condition existing in the affairs of the State Highway Department, which we think, should be called to your attention, to the end that some action might be taken to correct the discrimination that is being practiced against us and other contractors similarly situated.

The facts which we desire to call to your attention are as follows:

First: On Wednesday, July 22, 1931, Mr. George Wickline, Bridge Engineer for the Highway Commission, was a visitor in Corpus Christi. At that time, our Mr. Dunn told him, that he was desirous of bidding on the bridge construction across the Nueces River on the County line between Jim Wells and San Patricio Counties. Mr. Wickline advised Mr. Dunn that the Nueces Construction Company had best not bid on this work, but had best confine their work to road construction. He further advised him that he would not be permitted to bid on the work of bridge construction; that he, Wickline, did not want him to bid on such work. Mr. Dunn advised Mr. Wickline that our Company, the Nueces Construction Company, was anxious to bid on this work, and would comply with all the conditions of the advertisement, with reference to responsibility of the contractor and security for the work, in event they were successful in their bid.

Upon receiving the information from Mr. Wickline, Mr. H. S. Wilder, President of the Nueces Construction Company, immediately took the matter up in person with Mr. D. K. Martin, of the State Highway Commission, and Mr. Martin assured him that his Company would be supplied with bidding blanks, and plans and specifications to bid on the work. This occurred on Thursday, July 23rd.

On Friday, July 24th, Mr. Dunn went to the District Engineer's office in Corpus Christi, and requested plans and specifications and that he be allowed to take them to the place where the work was to be performed and to inspect the site, in connection with the plans and specifications. He was advised by Mr. Bailey, District Engineer, that the plans were not to leave the office under any condition, and that he had no specifications, but that he might inspect the plans in his, Bailey's, office.

On Saturday, July 25th, Mr. H. S. Wilder called Mr. George Edwards, Construction Engineer for the Highway Department, and requested plans and specifications. And Mr. Edwards promised that he would try to get them out Saturday evening, to Mr. Wilder. And again on Saturday, the Nueces Construction Company wrote and requested plans and specifications for the purpose of inspecting the site and bidding on the job.

In answer to said letter and phone call, the Nueces Construction Company received a letter from Mr. Hodges, that they would have to send a representative to Austin to confer with the officials of the Highway Department before they could receive plans and specifications, which letter was received on Monday, and on receipt of which letter, Mr. Wilder again talked to Mr. Martin, on the phone, and Commissioner Martin assured Mr. Wilder that Mr. Dunn would be supplied with plans and specifications on Tuesday, upon his arrival in Austin.

Second:—On receipt of the letter from the State Highway Department and in accordance with the suggestion of Mr. Martin, Mr. Dunn immediately went to Austin, and on Tuesday was refused the plans and specifications by Mr. Hodges, who was acting under the instructions of State Engineer Gilchrist. Mr. Gilchrist's pretense for refusing to deliver the plans and specifications and bidding blanks on this work was that the Nueces Construction Company did not show a statement sufficient to justify a bid on the work. Whereupon, Mr. Dunn advised him that the Company had sufficient resources to justify their bid on the work and that the personnel of the Company had sufficient qualifications and experience for handling the work. In addition to this, he supplied the State Highway Engineer Mr. Gilchrist with a telegram from the Corpus Christi National Bank, assuring him that the Company had a credit of \$40,000 with that bank, and further, he supplied him with information from Coleman and Company, of San Antonio, that a good and solvent bond in double the amount of the value of the bid would be supplied, and gave him assurance from R. B. Everett and Company that the Nueces Construction Company had sufficient credit and responsibility to secure all

the tools, equipment and appliances necessary to perform the work.

Third:—After the information and assurances referred to in the preceding paragraph had been supplied, State Engineer Gilchrist, on Wednesday afternoon about five p. m., before the contract was to be let on Thursday, July 30th, reluctantly told Mr. Dunn that he would let him have the plans, specifications and bidding blanks, but that if he took them, he would assure him that he, Gilchrist, would prevent the Highway Commission from considering his bid, if within his power to do so.

We submit these facts because in our judgment, the facts clearly indicate that we have suffered a discrimination at the hands of the subordinate employees of the Highway Commission.

It is further apparent, in our opinion, that the only reason we were refused an opportunity to bid on the work that we desired to submit a bid on, was due to the fact that Mr. Gilchrist, Mr. Hodges and Mr. Wickline, of the Department, did not want the Nueces Construction Company, regardless of its qualifications, resources and capacity to do the work, to have an opportunity to bid on it. Evidently, a condition of affairs exists in the State Highway Department, in which the Department, in its policies of letting contracts, is being controlled by the subordinates, who refuse opportunity to contractors to bid on the work.

We strenuously object to the treatment that we have received, and submit this letter to you to the end that if, in your judgment, the facts justify it, that you will compel an investigation.

Yours very truly,
NUECES CONSTRUCTION CO.,
By H. S. Wilder, President.

FIFTEENTH DAY.

Senate Chamber,
Austin, Texas,
August 5, 1931.

The Senate met at 9:30 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Edgar E. Witt.

The roll was called, a quorum being present, the following Senators answering to their names: